

AMENDED IN ASSEMBLY JUNE 22, 2006

AMENDED IN SENATE APRIL 25, 2006

SENATE BILL

No. 1312

Introduced by Senator Alquist
(Coauthors: Assembly Members Berg and Cohn)

February 16, 2006

An act to amend Sections 1279 and 1422 of the Health and Safety Code, relating to health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1312, as amended, Alquist. Long-term health care facilities: inspections.

Under existing law, the State Department of Health Services regulates the licensure and operation of various health facilities, including long-term care health facilities, some of which are collectively classified as nursing homes. Existing law requires the department to conduct periodic inspections of health facilities for which a license or special permit has been issued, to insure the quality of care. Existing law exempts certain health facilities that are certified to participate in the federal Medicare and Medicaid Programs from these inspections.

Existing law, the Long-Term Care, Health, Safety and Security Act of 1973, requires the State Department of Health Services to conduct annual inspections, without notice, of long-term health care facilities, except facilities that have not had serious violations within the last 12 months, and in any case to inspect every facility at least once every 2 years, and further requires the department to vary the cycle for conducting these inspections to reduce the predictability of the inspections.

This bill would delete the above inspection exemption for federally certified health facilities. *The bill would require the department to ensure that a periodic inspection required to be conducted pursuant to those provisions is not announced in advance of the date of the inspection.*

This bill would specify that inspections and investigations of long-term health care facilities that are certified by the Medicare Program and the Medicaid Program shall determine compliance with federal standards and California statutes and regulations.

This bill would require the department, for purposes of inspecting those long-term health care facilities, to identify state law standards for the staffing and operation of long-term health care facilities. The bill would authorize the department to increase initial licensure and renewal fees for long-term health care facilities in order to recover any additional costs incurred by these requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The protection of residents in California's long-term health
- 4 care facilities is of paramount importance to the citizens of
- 5 California.
- 6 (b) During the last two decades, the Legislature has enacted
- 7 numerous nursing home reform measures designed to improve
- 8 residents' rights, increase minimum staffing levels, and protect
- 9 residents from abuse, neglect, and exploitation.
- 10 (c) While federal regulations and state statutory provisions
- 11 overlap in some areas, there are numerous state requirements that
- 12 exceed federal law and provide greater protection to residents of
- 13 long-term health care facilities.
- 14 (d) The State Department of Health Services has not
- 15 developed survey protocols for examining compliance with state
- 16 regulatory and statutory standards during regular inspections.
- 17 (e) Nursing homes that do not participate in the federal
- 18 Medicare Program or Medicaid Program are not being inspected
- 19 on a regular basis.

(f) Existing state law requires the State Department of Health Services to establish and maintain an inspection and reporting system to ensure that long-term health care facilities are in compliance with California statutes and regulations.

(g) Therefore, it is the intent of the Legislature to enact legislation to do all of the following:

(1) Ensure that California's standards for licensure of long-term health care facilities are maintained.

(2) Ensure that long-term health care facilities are inspected for compliance with state standards to the extent that those standards provide greater protection to residents, or are more precise than federal standards.

(3) Ensure that the cost of inspections is fully funded by the licensure fees imposed on long-term health care facilities.

SEC. 2. Section 1279 of the Health and Safety Code is amended to read:

1279. (a) Every health facility for which a license or special permit has been issued shall be periodically inspected ~~by a representative or representatives appointed by the department, or by another governmental entity under contract with the department.~~ *The frequency of inspections shall vary, depending upon the type and complexity of the health facility or special service to be inspected. Inspections, unless otherwise specified by state or federal law or regulation. The inspection shall include participation by the California Medical Association to the same extent it participated in inspections, as provided in Section 1282 prior to September 15, 1992.*

(b) *Except as provided in subdivision (c), inspections shall be conducted no less than once every two years and as often as necessary to insure the quality of care being provided.* ~~However, for~~

(c) *For a health facility specified in subdivision (a) ~~or (b)~~, (b), or (f) of Section 1250, inspections shall be conducted no less than once every three years, and as often as necessary to insure the quality of care being provided.* ~~During~~

(d) *During the inspection, the representative or representatives shall offer such advice and assistance to the health facility as they deem appropriate.*

~~(b)~~

1 (e) For acute care hospitals of 100 beds or more, the inspection
2 team shall include at least a physician, registered nurse, and
3 persons experienced in hospital administration and sanitary
4 inspections. During the inspection, the team shall offer advice
5 and assistance to the hospital as it deems appropriate.

6 (f) *The department shall ensure that a periodic inspection*
7 *conducted pursuant to this section is not announced in advance*
8 *of the date of inspection. An inspection may be conducted jointly*
9 *with inspections by entities specified in Section 1282. However, if*
10 *the department conducts an inspection jointly with an entity*
11 *specified in Section 1282 that provides notice in advance of the*
12 *periodic inspection, the department shall conduct an additional*
13 *periodic inspection that is not announced or noticed to the health*
14 *facility.*

15 (g) *Notwithstanding any other provision of law, the*
16 *department shall inspect for compliance with provisions of state*
17 *law and regulations during a state or federal periodic inspection,*
18 *including, but not limited to, an inspection required under this*
19 *section.*

20 SEC. 3. Section 1422 of the Health and Safety Code is
21 amended to read:

22 1422. (a) The Legislature finds and declares that it is the
23 public policy of this state to ensure that long-term health care
24 facilities provide the highest level of care possible. The
25 Legislature further finds that inspections are the most effective
26 means of furthering this policy. It is not the intent of the
27 Legislature by the amendment of subdivision (b) enacted by
28 Chapter 1595 of the Statutes of 1982 to reduce in any way the
29 resources available to the state department for inspections, but
30 rather to provide the state department with the greatest flexibility
31 to concentrate its resources where they can be most effective. It
32 is the intent of the Legislature to create a survey process that
33 includes state-based survey components and that determines
34 compliance with federal and California requirements for certified
35 long-term health care facilities. It is the further intent of the
36 Legislature to execute this inspection in the form of a single
37 survey process, to the extent that this is possible and permitted
38 under federal law. The inability of the state to conduct a single
39 survey in no way exempts the state from the requirement under

1 this section that state-based components be inspected in
2 long-term health care facilities as required by law.

3 (b) (1) (A) Notwithstanding Section 1279 or any other
4 provision of law, without providing notice of these inspections,
5 the state department, in addition to any inspections conducted
6 pursuant to complaints filed pursuant to Section 1419, shall
7 conduct inspections annually, except with regard to those
8 facilities which have no class “AA,” class “A,” or class “B”
9 violations in the past 12 months. The state department shall also
10 conduct inspections as may be necessary to assure the health,
11 safety, and security of patients in long-term health care facilities.
12 Every facility shall be inspected at least once every two years.
13 The department shall vary the cycle in which inspections of
14 long-term health care facilities are conducted to reduce the
15 predictability of the inspections.

16 (B) Inspections and investigations of long-term health care
17 facilities that are certified by the Medicare Program or the
18 Medicaid Program shall determine compliance with federal
19 standards and California statutes and regulations.

20 (C) In order to ensure maximum effectiveness of inspections
21 conducted pursuant to this article, the department shall identify
22 all state law standards for the staffing and operation of long-term
23 health care facilities. Initial license and renewal fees for
24 long-term health care facilities may be increased pursuant to
25 Section 1266 in order to recover any additional costs incurred by
26 the department as a result of this subparagraph.

27 (2) The state department shall submit to the federal
28 Department of Health and Human Services on or before July 1,
29 1985, for review and approval, a request to implement a
30 three-year pilot program designed to lessen the predictability of
31 the long-term health care facility inspection process. Two
32 components of the pilot program shall be (A) the elimination of
33 the present practice of entering into a one-year certification
34 agreement, and (B) the conduct of segmented inspections of a
35 sample of facilities with poor inspection records, as defined by
36 the state department. At the conclusion of the pilot project, an
37 analysis of both components shall be conducted by the state
38 department to determine effectiveness in reducing inspection
39 predictability and the respective cost benefits. Implementation of
40 this pilot project is contingent upon federal approval.

1 (c) Except as otherwise provided in subdivision (b), the state
2 department shall conduct unannounced direct patient care
3 inspections at least annually to inspect physician and surgeon
4 services, nursing services, pharmacy services, dietary services,
5 and activity programs of all the long-term health care facilities.
6 Facilities evidencing repeated serious problems in complying
7 with this chapter or a history of poor performance, or both, shall
8 be subject to periodic unannounced direct patient care
9 inspections during the inspection year. The direct patient care
10 inspections shall assist the state department in the prioritization
11 of its efforts to correct facility deficiencies.

12 (d) All long-term health care facilities shall report to the state
13 department any changes in the nursing home administrator or the
14 director of nursing services within 10 calendar days of the
15 changes.

16 (e) Within 90 days after the receipt of notice of a change in the
17 nursing home administrator or the director of nursing services,
18 the state department may conduct an abbreviated inspection of
19 the long-term health care facilities.

20 (f) If a change in a nursing home administrator occurs and the
21 Board of Nursing Home Administrators notifies the state
22 department that the new administrator is on probation or has had
23 his or her license suspended within the previous three years, the
24 state department shall conduct an abbreviated survey of the
25 long-term health care facility employing that administrator within
26 90 days of notification.